

FILED

2008 APR 25 AM 9:33

RICHARD W. WICKING
CLERK, U.S. DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

Alan A. Cooke
c/o Kimberly Starr
P.O. Box 5692
Eureka, CA 95502

PRO SE

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
OAKLAND DIVISION

ALAN A. COOKE, *et al*,

Case No. C 08-00016 SBA

Plaintiffs,

v.

CHIEF MURL HARPAM, *et al*,

Defendants.

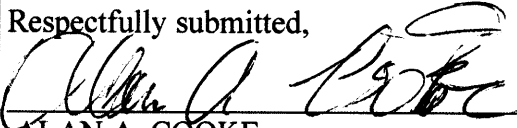
**MEMORANDUM OF DILIGENCE
AND MOTION FOR RULING ON
APPLICATION TO PROCEED IN
FORMA PAUPERIS PURSUANT TO
FEDERAL RULES OF CIVIL
PROCEDURE, RULE 4(c)(2) AND
RULE 4(m); DECLARATION OF
ALAN A. COOKE IN SUPPORT;
DECLARATION OF KIMBERLY L.
STARR; EXHIBIT IN SUPPORT OF
MOTION**

Plaintiff ALAN A. COOKE respectfully moves this Court to make a determination, without further delay, on his *Application To Proceed In Forma Pauperis*, which was filed on January 2, 2007 and has been pending with this Court for almost four months. Plaintiff Alan Cooke so moves this Court in order to avoid prejudicing the case, in order for the Plaintiff(s) to be in compliance with all the rules of the court, and so that the *Summons* and *Complaint* in the instant matter can be timely served on the Defendants within 120 days of the filing of the Complaint, as outlined in Federal Rule of Civil

1 Procedure, Rule 4(m). This motion is pursuant to Federal Rules of Civil Procedure, Rule
 2 4 (c)(2), Rule 4(m), Civil Local Rule 2-10, and hereto attached Declarations and Exhibit
 3 in support of this motion.

4
 5 Respectfully submitted,

Dated: April 25, 2008

6 
 7 ALAN A. COOKE

8
 9 DECLARATION OF ALAN A. COOKE IN SUPPORT

10 I, Alan A. Cooke, declare the following:
 11

- 12 1) I am a Plaintiff in the instant case.
- 13 2) On January 2, 2008, I filed with the San Francisco Division of the Northern District of
 14 California U.S. District Court a *Complaint For Damages For Violation Of Civil Rights And*
 15 *Other Wrongs* against 13 named defendants and various Doe defendants, 1-X inclusive. All
 16 Defendants are government agencies or government employees.
- 17 3) Also on January 2, 2008, I filed an *Application To Proceed In Forma Pauperis*
- 18 4) I am informed and believe that on February 14, 2008, the instant case was reassigned to this
 19 Court, for Judge Honorable Sandra Brown Armstong to preside over all further proceedings.
- 20 5) Prior to the reassignment of the instant case to this Court, I offered to the clerk of the San
 21 Francisco Division to send my proof of income from the Department of Veteran Affairs- to
 22 assist the Court in determining my indigent status. I was informed by the clerk that sending
 23 that document *or any additional paperwork* was unnecessary.
- 24 6) Since February 14, 2008, I have personally and through my agent, Ms. Kimberly Starr,
 25 inquired through 10 or more telephone correspondences with the Clerk of this Court about
 26 my *Application to Proceed In Forma Pauperis*. I have, in each of those 10 calls, spoken
 27 either with Madame Clerk Lisa Clarke, or with Clerk Jesse Mosley.
- 28 7) Exhibit A, attached hereto, is a true and correct copy of the verification of my current income
 reflected in a recent document from the Department of Veteran Affairs. My income and
 pertinent information, as declared in my January 2, 2008 *Application to Proceed In Forma*

Pauperis, is current and has not changed since I filed the *Complaint* and *Application*.

- 8) My concerns with the passing of time relate to witness memory in addition to potential procedural prejudice.

I declare, under penalty of perjury, that the foregoing is true and correct.

Executed on April 25, 2008 at San Francisco, California.

Signed:


ALAN A. COOKE

DECLARATION OF KIMBERLY L. STARR

I, KIMBERLY L. STARR, declare the following:

- 1) In February of 2008, Mr. Alan A. Cooke authorized me to act as his agent, to the extent permitted by law, related to the instant case.
- 2) I inquired to the Clerk of this Court about Mr. Alan Cooke's *Application to Proceed In Forma Pauperis* [Application] and his appurtenant concerns about timely service of the Defendants, and about any necessary actions that the Court needed Mr. Cooke to take to expedite the granting of the *Application* or to fulfill any obligations regarding service of the Summons and Complaint to Defendants. I made said inquiries through telephone correspondences on March 10, 2008, March 11, 2008, March 19, 2008, and April 10, 2008. I spoke with Clerk Jesse Mosley two times, and spoke with Clerk Lisa Clarke three or four times.
- 3) Clerk Lisa Clarke consistently informed me of that: a) Mr. Cooke's *Application to Proceed In Forma Pauperis* was not yet ruled on; b) Mr. Cooke was not required to fill out or send summons forms to the Court, and; c) Mr. Cooke did not need to do *anything* related to the case, and in particular, he did not need to do anything related to service of the Complaint on the Defendants until the *Application* was granted or denied, nor did the Court need anything from Mr. Cooke to make a determination on his *Application*.
- 4) On or about April 16, 2008, I visited the Oakland District Courthouse to get summons' issued so that I could ~~effect service~~ ^{cause service} on the Defendants. At that time, I was informed that

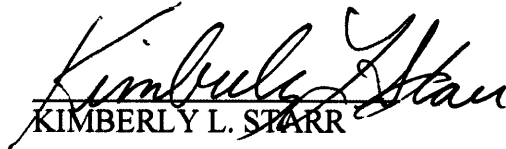
cause service
KLS

1 without the Application being granted or the fee being paid, those summons' would not be
2 issued. I was also informed that Mr. Cooke's *Application* was still pending.

3 I declare under penalty of perjury that the foregoing is true and correct.

4 Executed on April 25, 2008 at San Francisco, California.

5
6 Signed:

7 
KIMBERLY L. STARR

**Department of
Veterans Affairs**

P.O. BOX 11000
ST. PAUL, MN 55111-0000



ALAN ANTHONY COOKE
PO BOX 420035
SAN FRANCISCO CA 94142

March 11, 2008

In Reply Refer To:

27

File Number:

27-392-470
PAYEE NO 00
A A COOKE

This is to certify that the records of the Department of Veterans Affairs disclose that the above named veteran is in receipt of nonservice-connected disability pension. This payment is made in accordance with public laws administered by the Department of Veterans Affairs. The records of the Department of Veterans Affairs show that the veteran was discharged under honorable conditions.

Present Amount: \$931.00 Date Awarded: 12-01-07

Prior Amount: \$910.00 Date Awarded: 12-01-06

IF YOU RESIDE IN THE CONTINENTAL UNITED STATES, ALASKA, HAWAII OR PUERTO RICO, YOU MAY CONTACT VA WITH QUESTIONS AND RECEIVE FREE HELP BY CALLING OUR TOLL-FREE NUMBER 1-800-827-1000 (FOR HEARING IMPAIRED TDD 1-800-829-4833).

K. L. ANDERSON

VETERANS SERVICE CENTER MANAGER

Exhibit
"A"